IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR
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ORDER

Ayodhya Devi
vs
State of Rajasthan & Ors.

S.B. CIVL WRIT PETIITON NO.1966/2001 UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER : 30th August, 2006

PRESENT
HON'BLE MR.MOHAMMAD RAFIQ,J.

Mr.Mahesh Bora, Advocate, for the petitioner.
Mr.Rameshwar Dave, Dy. Government Advocate for the respondents.

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BY THE COURT: -

Smt. Ayodhya Devi widow of Late Shri Harivallab Dave has filed the present writ petition with the prayer that the respondents may be directed to pay terminal benefits of her late husband who retired as Executive Officer, Nagar Palika, Mundwa on 30.4.1997. During his life time, the Director, Local Self Government passed an order on 22.10.1999 vide which his provisional pension was sanctioned w.e.f. 1.5.1997. His pay fixation order was passed enormously delayed on 6.7.1999,

which eventually caused delay in finalization of his pension case. He in the meantime, died on 13.1.2000. The Director, Local Self Department passed an order on 27.2.2000 requiring Nagar Palika, Mundawa to make payment of all his retiral dues followed by such similar directions on 31.5.2000 and 13.11.2000. Finally, the petitioner served a legal notice for demand of justice on the respondents on 26.3.2001. When still nothing was done, the present writ petition was filed.

The respondents in the reply to the writ petition stated that the delay in finalizing pension case of the petitioner was caused firstly because his pay fixation was not timely made and secondly, his service book was not available with the Nagar Palika, Mundawa. Since the late husband of the petitioner remained posted at number of places, correct position with regard to dues towards payment of general provident fund from different Municipalities could not be verified. The respondents have admitted that last pay fixation of the petitioner's husband was made vide order dated 6.7.1999 fixing his pay @ 8100/- w.e.f. 15.1.1996.

During the course of arguments, learned counsel for the respondents asserted that all retiral dues of the petitioner have since been paid. Learned counsel for the petitioner also did not

deny that position. He however argued that the petitioner was subjected to undue harassment inasmuch as the retiral dues of her husband were not timely paid and the payment was delayed enormously for no fault on his part. He therefore submitted that the petitioner should be granted interest for the period of delay because in making the payment of entire dues.

In the facts of the present case, it is more than evident that the respondents did not finalize the pension case of the petitioner during his life time. He upon attaining the age of superannuation retired on 30.6.1997 and had to face the agony of not receiving pension for about two and half years till finally provisional pension order was issued by the Director, Local Self Department on 22.10.1999. The obvious reasons for delay in finalizing his pension case are that his pay fixation order was made inordinately delayed on 6th July, 1999 and the details with regard to contribution made by various municipalities towards payment of his provident fund etc had to be collected from the places where he remained posted and his service book could not be completed in time. Reasons of delay obviously could not be attributed to the petitioner's late husband. In the circumstances, it would be just and proper to direct the respondents to not only make payment of interest on the delayed payment of retiral benefits of late husband of the

petitioner but also they are liable to be suitably saddled with the cost in compelling the petitioner to indulge in this otherwise avoidable litigation.

In the result, the writ petition is partly allowed and the respondents are directed to pay interest to the petitioner @ 6% per annum for the period of delay caused in making payment of retiral dues and also pay to her a sum of Rs.2,000/- as cost of litigation which shall be paid together with the aforesaid amount within a period of three months from the date of service a copy of this judgment upon them.

(MOHAMMAD RAFIQ), J.

c.p.goyal/-